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BEFORE THE FEDERAL ELECTION COMMISSION

JUL 27 4 19 PM '99

In the Matter of

James ("Jim") Toledano

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MURs 4389 and 4652

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On February 23, 1999, the Commission found reason to believe that Jim Toledano—the former Chairman of the Orange County Democratic Central Committee (the "Democratic Committee" or "Committee")—violated 2 U.S.C. §§ 432(b) and 441f of the Federal Election Campaign Act of 1971, as amended (the "Act"). The reason to believe findings were based on Mr. Toledano's failure to forward a \$10,000 contribution to the Democratic Committee's treasurer, and his assisting the contributors to make the contribution to a federal candidate in the name of the Democratic Committee. On May 18, 1999, this Office sent a General Counsel's Brief ("GC Brief") dated May 17, 1999 to Mr. Toledano.¹ A Response Brief was received on June 14, 1999. Attachment 1.

II. ANALYSIS

This Office's analysis of the matter is contained in the GC Brief. In requesting that the Commission dismiss this matter, Mr. Toledano's sole new argument in his Response Brief is that the violation at issue is not serious enough to warrant the Commission's attention. The argument is premised on Mr. Toledano's continuing claim that the actions he took in receiving, depositing,

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and spending the contribution were done on behalf of the Orange County Democratic Central Committee. Thus, he argues that his failure to forward the contribution at issue—and the required accompanying information—to the Committee's treasurer was merely a technical violation.

This argument is unpersuasive because Mr. Toledano admitted to intentionally withholding the contribution and related information he was required to transmit to the Democratic Committee's treasurer pursuant to Section 432(b), and the Committee has denied responsibility for the expenditure of the contributed funds because of his actions. Thus, Mr. Toledano's actions resulted in exactly the kind of circumstance that Section 432(b) is intended to prevent. Accordingly, this Office recommends that the Commission find probable cause to believe that James Toledano violated 2 U.S.C. § 432(b).

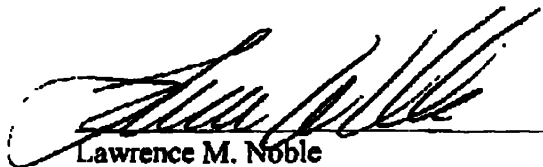
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[REDACTED]

IV. RECOMMENDATIONS

1. Deny James Toledano's request for dismissal of this matter.
2. Find probable cause to believe that James Toledano violated 2 U.S.C. § 432(b).
3. [REDACTED]
4. [REDACTED]

Date 7/27/99


Lawrence M. Noble
General Counsel

Attachments:

1. Response Brief
2. [REDACTED]

Staff assigned: Eugene H. Bull

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